

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1463V

Filed: March 15, 2017

UNPUBLISHED

ABBY DUX,

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Petitioner,

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v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

Ruling on Entitlement; Concession;
Influenza (“Flu”); Shoulder Injury
Related to Vaccine Administration
 (“SIRVA”);
Special Processing Unit (“SPU”)

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Respondent.

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Ronald Homer, Conway, Homer, P.C., Boston, MA, for petitioner.

Douglas Ross, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On November 4, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccination administered on October 10, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 14, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent concluded that petitioner suffered left-side adhesive capsulitis causally related to the flu vaccination she received on October 10, 2014. *Id.* at 5. Respondent further agrees that petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.*

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

In view of respondent's concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master